

12.410 CRIMINAL WARRANTS/REFERRALS AND PRIVATE COMPLAINT PROGRAM CASE REFERRALS/DISPOSITIONS

Reference:

Procedure 12.412 - Domestic Violence
Procedure 12.400 - Offense Reporting, Miscellaneous Reporting
Standards Manual - 1.2.5, 1.2.6, 1.2.7

Information:

The Private Complaint Mediation Service (PCMS) will schedule most misdemeanor complaints between private citizens for a mediation hearing. Exceptions to this guideline are specified in this procedure.

PCMS intake personnel do not screen or process any police authorized warrant referrals. Persons with these referrals who appear at PCMS will be directed to the Clerk's Office for warrant processing.

PCMS intake personnel have no authority to issue restraining orders and do not have authority to refer citizens to file petitions for restraining orders unless a prosecutor authorizes such a referral.

Purpose:

To provide mediation in an attempt to resolve certain misdemeanor offenses without resorting to criminal prosecution.

Policy:

Officers will establish probable cause for successful prosecution of an offense before filing criminal complaints. Misdemeanor offenses that do not meet this standard may be referred to PCMS for mediation review if the offense is eligible under PCMS guidelines.

Procedure:

- A. Private Citizen Reporting a Felony:
 - 1. Conduct a preliminary investigation.
 - 2. Complete an offense report, if required.

3. Notify the responsible investigating unit.
 - a. That unit may respond immediately to pick up the complainant, or arrange for a meeting with the complainant at his home or at the unit.
 4. If the investigation reveals probable cause for successful prosecution, the investigating officer will:
 - a. File all appropriate criminal complaint(s). Do not refer complainant to Private Complaint Program.
 - b. Prepare the case for presentation through the court system.
 5. If the incident involves Domestic Violence, refer to Procedure 12.412.
- B. Private Citizen Reporting a Misdemeanor:
1. Conduct a preliminary investigation.
 2. Complete an offense report, if required.
 3. If the investigation reveals probable cause for successful prosecution, the investigating officer will:
 - a. File all appropriate criminal complaint(s).
 - b. Prepare the case for presentation through the court system.
 4. An officer making, or intending to make, an immediate arrest of the suspect, will respond to the Clerk of Courts Office with the complainant to file the appropriate complaint(s) (e.g., business owner, store security).
 5. If the investigating officer believes it is not appropriate for a Division member to file a criminal complaint(s) and the case would benefit from mediation review, the officer will:
 - a. Refer the complainant to the Private Complaint Program Office except in the following circumstances:

- Felony offenses
- Sex offenses
- Drug offenses
- Fraud offenses
- Misuse of credit card
- Traffic offenses
- Child Endangering
- Contributing to unruliness or delinquency of a child
- Non-Support of Dependents
- Interference with custody cases
- Cases involving juvenile defendants
- Business/citizen disputes involving business related matters (Assault or Menacing complaints and business complaints of Passing Bad Checks or Defrauding a Livery are accepted)
- Landlord/tenant disputes involving payment of rent/eviction (Assault or Menacing complaints are accepted)
- Complaints involving public officials or security guards/bouncers acting in their official capacity
- Complaints involving Agency Officials or Teachers acting in their official capacity (Assault or Menacing complaints are accepted)
- Employer/Employee disputes involving employment related matters (Assault or Menacing complaints are accepted)
- Cases in which there is a criminal court case pending between the parties
- Cases in which the defendant is incarcerated and the release date is more than two weeks away
- Mentally incompetent complainant/defendant

- b. Complete Victim Assistance/Citizen Referral (Form 655), referral section. Indicate "Mediation Hearing - Private Complaint Program."
- c. Advise the citizen to appear in person at the Private Complaint Office in the Hamilton County Justice Center within three business days.

- 1) Complainant should bring all pertinent documentation and witness information including full name and home mailing address of the defendant.
 6. If the incident involves domestic violence, refer to Procedure 12.412.
 7. Complete Form 655, indicating a Business Complaint Warrant Referral when a business reports an offense (e.g., employee theft, shoplifting), the suspect is known, and immediate arrest will not occur.
- C. If an offense report is made, note the action taken in the "Remarks and Explanations" section of the report:
1. "Complainant Referred to Private Complaint"
 2. "Business Complaint Referral"
 3. "Warrant Signed by Police/Complainant"
 4. "Refused Service," etc.
- D. Processing Offenses Reported by the Private Complaint Program:
1. Court Control Unit receives preliminary Private Complaint Program complaint forms for all reportable offenses handled by private complaint.
 - a. The completed preliminary complaint forms contain all information essential for completion and closure of an offense report.
 - b. The Court Control Unit forwards the preliminary complaint forms to the district where the offense occurred.
 2. Districts:
 - a. Determine whether an offense report of the case is already on file. If so, proceed with paragraph "c" (below).
 - b. If no offense report is on file, prepare the proper offense report using the information recorded on the printout.

- 1) Enter Private Complaint Program in the "Reported By" block.
- c. If an offense report is already on file or one is prepared from the preliminary complaint form, record the closure disposition corresponding to the program as follows:
- 1) If the program disposition is "complaint issued," determine whether the warrant has been served.
 - a) If served, close the case by arrest.
 - b) If the warrant is not served and the defendant's location is unknown, close the case as inactive.
 - 2) If the program disposition is "complaint withdrawn/dropped," and the address information on the defendant is complete, close the case as otherwise; an exceptional clearance.
 - 3) If the program disposition is "other," investigate the case to determine if it qualifies to be closed as unfounded.
- d. When an offense report is closed under this procedure, staple the preliminary complaint form to the district copy of the offense report.
- e. Keep the preliminary complaint form in the district file for one year before destroying if:
- 1) The offense described in the preliminary complaint form is not reportable, according to Procedure 12.400, or
 - 2) An offense report on the case is not already on file.

- f. Offenses to be closed according to these guidelines may be investigated in greater detail at the discretion of the unit commander.

HEARING DISPOSITION LIST

1. Warrant Issued
2. Complaint Withdrawn: Settlement by Parties
3. Complaint Withdrawn by Complainant
4. No Settlement/No Warrant
5. Complaint Dropped: Complainant Failed to Appear
6. **NOTE: There is no longer a Disposition Code 6**
7. Complaint Dropped: Both Complainant and Defendant Failed to Appear
8. Complaint Dropped: Notice Returned
9. Complaint Dropped: Inappropriate for Program Mediation
10. Complaint Dropped: Parties Have Case Pending In Court: Case #
11. Complaint Dropped: Incorrect Complainant or Defendant
12. Warrant Authorized But Not Picked Up
13. Court Referred Case: No Settlement in Hearing
14. Court Referred Case: Complainant Failed to Appear
15. Court Referred Case: Defendant Failed to Appear
16. Court Referred Case: Both Complainant and Defendant Failed to Appear
17. Court Referred Case: Complainant Requested Dismissal